

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VERNON MCCULLUM, III,

Defendant.

3:13-cr-00012-RCJ-WGC-1

**ORDER**

Pursuant to a plea agreement with the United States, Defendant Vernon McCullum, III pled guilty in this Court to count five of the Superseding Indictment for transportation of a minor in interstate commerce for prostitution or other illegal sexual activity. Defendant asked the Court to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 based upon trial counsel's failure to appeal certain issues. The Court found that the claim was both procedurally defaulted and without merit. Defendant now asks the Court to issue a certificate of appealability under § 2253 as to whether trial counsel's failure to at least file an *Anders* brief with the Court of Appeals is permitted. The Court denies the motion. Even if the Court were to excuse the procedural default (under *Anders* or otherwise), as the Court noted, the underlying ineffective assistance claim is plainly without merit. Defendant has made no substantial showing that a reasonable jurist could find a denial of his constitutional right to effective assistance at trial. *See Slack v. McDaniel*, 529 U.S. 473, 483–84 (2000).

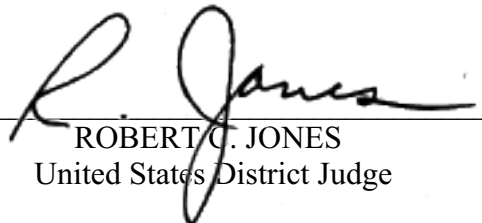
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**CONCLUSION**

IT IS HEREBY ORDERED that the Motion for Certificate of Appealability (ECF No. 144) is DENIED.

IT IS SO ORDERED.

Dated this 24th day of March, 2014.

  
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ROBERT C. JONES  
United States District Judge